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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
WESTERN DIVISION

CATHOLIC SOCIAL SERVICES,)	Case No. Civ S 86-1343 LKK
(CENTRO DE GUADALUPE)	
IMMIGRATION CENTER), et al.,)	
)	
Plaintiffs)	STIPULATION AND ORDER
)	OF PROTECTION REGARDING
)	PRIVACY ACT INFORMATION
)	AND INFORMATION COVERED
JANET NAPOLITANO, Secretary)	8 U.S.C. § 1255A(c)(5)
of Department of Homeland)	
Security, et al.,)	DATE: N/A
)	
Defendants)	
)	

1 Additional counsel for Defendants:

2 TONY WEST

3 Assistant Attorney General

4 Civil Division

5 TERRI J. SCADRON

6 Assistant Director

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1 Plaintiffs, by and through their attorneys, and Defendants, by and through
2 their attorneys, stipulate and agree to the following:
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4 1. This Stipulation and Order is agreed to and entered pursuant to Fed. R.
5 Civ. P. 26(c), which provides for the issuance of protective orders limiting the
6 disclosure of privileged and confidential documents and information in
7 appropriate circumstances, and 5 U.S.C. § 552a(b)(11) and (g)(1), which provide
8 an exception to the Privacy Act of 1974 for documents and information released
9 pursuant to a court order.
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12 2. This Stipulation and Order relates to a class action brought pursuant to
13 Section 245A of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1255a
14 (legalization applications); 28 U.S.C. § 1331 (federal question jurisdiction); 28
15 U.S.C. § 2201 (the Declaratory Judgment Act); and 5 U.S.C. § 701 (the
16 Administrative Procedures Act). The class action challenges Defendants’
17 procedures for the adjudication of INA Section 245A legalization applications.
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20 3. The Settlement Agreement dated January 23, 2004, and a subsequent
21 Order of the Court dated May 18, 2010 (“2010 Order”), contemplate the disclosure
22 of documents and information that may be protected from release by the Privacy
23 Act of 1974, 5 U.S.C. § 552(a) and/or by 8 U.S.C. § 1255a(c)(5). Specifically, the
24 2010 Order provides that United States Citizenship and Immigration Services
25 (“USCIS”) will provide class counsel with notices and decisions which may
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1 contain identifying information on legalization applicants, i.e. name, date and
2 place of birth, last known mailing address, Social Security Number, counsel name
3 and contact information and other available identifying information.
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5 4. While disclosure of such information ordinarily is prohibited in civil
6 litigation, the Privacy Act provides, as an exception, that such records may be
7 released “pursuant to the order of a court of competent jurisdiction.” 5 U.S.C. §
8 552a(b)(11). An order of this Court, therefore, would provide a basis for release
9 of the requested information pursuant to the Privacy Act and Fed. R. Civ. Pro.
10 26(c), as well as insulate Defendants from potential liability for improper
11 disclosure. See 5 U.S.C. § 552a(g)(1).
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15 5. While INA Section 245A(c)(5) ordinarily limits the disclosure of
16 information furnished by an applicant in a legalization application, an order of this
17 Court would provide a basis for release of the requested information and insulate
18 Defendants from potential liability for improper disclosure. See Zambrano v. INS,
19 972 F.2d 1122 (9th Cir. 1992), vacated on other grounds, 509 U.S. 918 (1993).
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22 The purposes of this Stipulation and Order include protecting the
23 confidentiality of certain information while ensuring that the parties are able to
24 quickly and accurately identify and contact potential class members and provide
25 them the relief they may be entitled to under the Settlement Agreement and the
26 2010 Order, as well as to monitor compliance with the Settlement Agreement and
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1 the 2010 Order. Accordingly, the parties, subject to the Court's approval, stipulate
2 and agree that the procedures set out in the ensuing paragraphs shall be followed
3 with respect to information provided by Defendants pursuant to the Settlement
4 Agreement and the 2010 Order.
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7 6. All information provided pursuant to the Settlement Agreement and
8 the 2010 Order shall be used solely in connection with this lawsuit. No
9 information may be released or disclosed to any person other than:
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11 a. the potential class member the information relates to or
12 Class Counsel in this action, or other counsel or representative of the
13 class member;

14 b. secretaries, paralegal assistants, and other employees and
15 agents of Class Counsel who are engaged in assisting Class Counsel
16 in the preparation of this action;

17 c. outside consultants and experts consulted or retained for
18 the purpose of assisting in the preparation of this action, upon
19 condition that, before making disclosure, Class Counsel must obtain
20 and retain an agreement in writing from the outside expert or
21 consultant reciting that he or she has read a copy of this Stipulation
22 and Order and agrees to be bound by its provisions; and

23 d. any other person mutually authorized by all counsel to
24 examine such information and materials.

25 7. Any person having access to the information disclosed by Defendants
26 pursuant to the Settlement Agreement and the 2010 Order, such as paralegals or
27 other staff or agents of Plaintiffs' counsel, shall be informed that the information
28 is confidential and subject to a non-disclosure Order of the Court. No such person

1 shall release or disclose the information to any person other than those specifically
2 identified in paragraph 6, above, without further order of the Court or stipulation
3 of the parties.
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5 8. If Class Counsel intends to file any motion, opposition, reply or any
6 other filing with the Court and attach thereto or set forth therein any document or
7 information that Defendants have provided pursuant to the Settlement Agreement
8 or the 2010 Order, Class Counsel shall file the document under seal or redact
9 identifying information.
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12 9. Within sixty days following the end of the period specified in
13 Paragraph 16 of the Settlement Agreement, any originals or reproductions of any
14 the information provided by Defendants under the Settlement Agreement and this
15 Stipulation and Order shall be destroyed by Class Counsel or returned to the
16 custody of counsel for the Defendants. If the documents are destroyed, Class
17 Counsel shall so notify Defendants' counsel in writing. Individual class members
18 may retain documents pertaining to their claims obtained from Class Counsel.
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1 10. Any specific part or parts of the restrictions imposed by this
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3 Stipulation and Order may be terminated at any time by a letter from counsel for
4 Defendants to Class Counsel or by order of the Court.
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6
7 /s/ Carlos Holguin
8 CARLOS HOLGUIN
9 Center for Human Rights
10 and Constitutional Law
11 256 S. Occidental Blvd.
12 Los Angeles, CA

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Counsel for Plaintiffs

/s/Anthony Norwood
ANTHONY NORWOOD
Office of Immigration Litigation
Box 878
Washington, DC 20044

Counsel for Defendants

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2 The parties having stipulated, it is hereby ORDERED as follows:

3 1. Notwithstanding any other provision of the Privacy Act, 5 U.S.C. §
4 552a, et seq., United States Citizenship and Immigration Services (“USCIS”), its
5 officers, agents, employees and representatives are hereby authorized under 5
6 U.S.C. § 552a(b)(11) to release to Class Counsel the information identified under
7 the Settlement Agreement and the 2010 Order.
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10 2. Notwithstanding any provision of 8 U.S.C. § 1255A(c)(5), USCIS, its
11 officers, agents, employees and representatives are hereby authorized to release to
12 Class Counsel the information called for under the Settlement Agreement and the
13 2010 Order.
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15 3. Class Counsel shall utilize such information only for the purpose of
16 locating potential class members in order to notify them of their rights under the
17 Settlement Agreement and the 2010 Order, and to monitor compliance with the
18 Settlement Agreement and the 2010 Order, and shall make no further disclosure of
19 such information beyond what is necessary to accomplish these purposes.
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22 4. The USCIS, its officers, agents, employees and representatives are
23 hereby relieved of any obligation under 5 U.S.C. § 552a(c) to make or keep any
24 accounting of any disclosure or, under 5 U.S.C. § 552a(e)(8), to provide notice of
25 any disclosure to any individual, made under the authority of this Order.
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1 5. The purpose of this order is to enable the USCIS its officers, agents,
2 employees and representatives to provide information which they might otherwise
3 be prohibited from disclosing under the Privacy Act, 5 U.S.C. § 552a and/or 8
4 U.S.C. § 1255a(c)(5). However, it is understood and agreed that this Order does
5 not constitute an agreement or a ruling that any particular evidence is
6 discoverable, relevant or admissible in this matter, or any other matter. Nor,
7 except in so far as may be necessary to ensure that any disclosure does not violate
8 any provision of 8 U.S.C. § 1255a(c)(5), may this Order be construed to compel
9 any further action on the part of the USCIS or any of its officers, agents,
10 employees or representatives in this matter, or any other matter. Both parties
11 retain the right to move the Court to modify, clarify, or vacate this Order.

12 Dated: January 5, 2011

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1 Dated: January 5, 2011

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11 /s/ Carlos Holguin

13 Attorneys for Plaintiffs

14 **ORDER**

15 It is so ordered.

17 Dated: January 5, 2011.

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20 LAWRENCE K. KARLTON
21 SENIOR JUDGE
22 UNITED STATES DISTRICT COURT
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CERTIFICATE OF SERVICE

I hereby certify that on this January 5, 2011, two copies of the foregoing document were served by U.S. Mail, addressed to:

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